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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

LAS VEGAS SKYDIVING ADVENTURES
LLC, a Nevada limited-liability company,

Plaintiff,

v.

GROUPON, INC., a Delaware corporation;
DOES I through X, inclusive; and ROE
CORPORATION I,

Defendants.

Case No.: 2:22-cv-00047-RFB-BNW

**GIBSON LEXBURY LLP'S MOTION
TO WITHDRAW AS ATTORNEYS OF
RECORD**

Gibson Lexbury LLP ("GL") respectfully seeks an order from this Court allowing GL to withdraw from its representation of Plaintiff Las Vegas Skydiving Adventures LLC ("LVSA" or "Plaintiff") in this matter, pursuant to LR IA 11-6. GL has a basis to withdraw under Nevada Rule of Professional Conduct 1.16(a)(3).

This Motion is based on the memorandum of points and authorities set forth herein, the Declaration of Jodi Donetta Lowry, Esq. attached hereto as Exhibit 1 ("Lowry Dec."), and any other matter this Court wishes to take into consideration.

1 **I. FACTS**

2 Plaintiff filed this case on January 10, 2022 (ECF No. 1). Groupon moved to dismiss on
 3 February 23, 2022 (ECF No. 8). On June 13, 2022, this Court denied all pending motions
 4 without prejudice and stayed this case until after a decision by the Ninth Circuit in Plaintiff's
 5 appeal in *Las Vegas Skydiving Adventures LLC v. Groupon, Inc.*, case no. 2:18-cv-02342-APG-
 6 VCF. ECF No. 16.

7 In September 2022, Plaintiff discharged GL and retained new counsel, Duane Frizell,
 8 Esq. Notwithstanding the fact that proceedings are ongoing in this matter, and Mr. Frizell has
 9 entered an appearance in Plaintiff's Ninth Circuit appeal, Mr. Frizell has not yet entered an
 10 appearance in this case, which has mandated this Motion.

11 **II. STANDARD**

12 Nevada Rule of Professional Conduct Rule 1.16(a)(3) provides that:

13 (a) Except as stated in paragraph (c), a lawyer shall not represent a
 14 client or, where representation has commenced, shall withdraw
 from the representation of a client if:

15 ...

16 (3) The lawyer is discharged...

17
 18 **III. ARGUMENT**

19 A. ***GL Has Been Discharged And Is Required To Withdraw From Representation***
 20 ***of LVSA***

21 GL's request to withdraw from representing LVSA is in compliance with the NRPC. The
 22 NRPC makes clear the GL has no discretion to refrain from moving to withdraw from
 23 representation of Plaintiff. Rule 1.16(a)(3) makes clear that "where representation has
 24 commenced, [a lawyer] *shall* withdraw from the representation of a client if... [t]he lawyer is
 25 discharged." (Emphasis supplied.) Plaintiff has unequivocally discharged GL as Plaintiff's
 26 attorney and explicitly instructed GL to withdraw from representation in this proceeding. Ex. 1.
 27 GL thus seeks this Court's permission to withdraw at the earliest possible opportunity.
 28

B. The Withdrawal Will Not Delay Discovery, Trial or any Hearings in this Case.

Withdrawal is further allowable because this case is currently stayed, and no trial date has been set. As such, the procedural concerns of Local Rule IA 11-6(e) are of no concern. No discovery deadlines, hearings, or trial will be affected by the withdrawal of GL as attorneys of record.

IV. CONCLUSION

For the reasons set forth herein, GL respectfully requests that this Court grant this Motion and allow GL's withdrawal as counsel in this matter for Plaintiff.

Dated this 20th day of September, 2022.

Gibson Lexbury LLP

/s/ Daniel E. Joslyn

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*Attorneys for Plaintiff Las Vegas Skydiving
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ORDER

IT IS SO ORDERED

DATED: 3:07 pm, September 21, 2022



BRENDA WEKSLER

UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

Pursuant to Local Rule 5 of this Court, I certify that I am an employee of Gibson Lexbury LLP and that on September 20, 2022, I caused a correct copy of the foregoing **GIBSON LEXBURY LLP'S MOTION TO WITHDRAW AS ATTORNEYS OF RECORD** to be served via CM/ECF, where applicable, or, where not applicable, via first-class mail, postage pre-paid, to:

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/s/ Alec J. Wade

An employee of **Gibson Lexbury LLP**